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MAILED
FROM DIRECTOR'S OFFICE

NOV 09 2005

TECHNOLOGY CENTER 3600

In re Application of
Philip W. Eggleston
Application No. 10/005,534
Filed: November 8, 2001
For: ROTARY VALVE APPARATUS AND
ASSOCIATED METHODS

: DECISION ON PETITION
: TO WITHDRAW THE
: HOLDING OF ABANDONMENT

This is a decision on applicant's petition to revive an abandoned application, which has been taken as a petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on July 23, 2004. There is no fee for a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Abandonment was mailed on July 8, 2004 because of applicant's failure to respond to the Office action mailed November 13, 2003, that set a three-month shortened statutory period for response.

The petition indicates that a response was filed by mail on February 12, 2004. In support thereof, petitioner submits a copy of a response, which includes a Certificate of Mailing signed by Roger A. Heppermann, and dated February 12, 2004. Petitioner further includes a copy of a postcard receipt dated February 17, 2004. Since the postcard receipt has a date stamp outside the period for reply, which ended at midnight on February 14, 2004 (February 13, 2004 falling on a Sunday), and no extensions of time were purchased, applicant cannot rely on the postcard receipt and must rely on the Certificate of Mailing, dated February 12, 2004, to show that the response was timely filed.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must provide the following:

- (1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) by the person who signed the certificate attesting to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above, the petition fails under requirement (2) to provide a proper statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of sending the original response by mail on the date indicated on the certificate, by the person who signed the certificate, in this instance Roger A. Heppermann.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."



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RAR/rwg: 10/05/05